

lawsuit asking for unspecified monetary damages is pretty strong evidence that the you're not going to be cooperative.

34. Similarly, the Mass Media Bureau claims that Calvary lied about Mr. Hodgins, and that it broke three appointments to fix his set. Mrs. Stewart testified that she spoke with Mr. Hodgins many times, and they could never arrange a convenient time for a visit (KOKS fdgs. ¶ 48). Since from his directions to his house it seemed that he lived beyond the blanketing contour, she told him of a filter he could install. It seems much more likely that this conflict in testimony is the result of a misunderstanding or miscommunication rather than a calculated lie on Calvary's part. Why would Calvary, which made hundreds of home visits with complainants, choose Mr. Hodgins to arbitrarily break three appointments? No other complainant testified concerning broken appointments, it seems that once Calvary made an appointment (see Mr. Denton), that it was pretty good about keeping them. Finally, Calvary knew that its responses were being read and monitored. Why would it deliberately lie about breaking appointments with Mr. Hodgins?

35. In its conclusions the Mass Media Bureau concedes that Calvary could have made innocent mistakes, but argues that Calvary's failure to review its files before it made a home visit was "inexcusable" (MMB fdgs. ¶ 83). The reasons for Calvary not to review its files are discussed above in paragraph 19, and while naive are not "inexcusable."

36. The Mass Media Bureau also contends that Calvary had a duty to inform the Commission that it did not address complaints about interference to radios or to more than one TV per household. As noted in paragraph 13 above, the Mass Media Bureau is wrong on the facts in asserting that Calvary did not address or respond to complaints about interference to radios. Calvary did attempt to address complaints about radio interference from those persons who mentioned it in the telephone calls or during the home visits.<sup>3/</sup> Likewise, despite Mr. Stewart telling Mr. Lampe and Mr. Ramage about Calvary's supposed "policy" about not fixing more than one set in a home, Mrs. Stewart, who was doing all the work, didn't know of any such policy and didn't adhere to it (KOKS fdgs. ¶ 37). Her reports show that she attempted to resolve complaints on more than one television sets in a number of homes, including roughly 10 percent of the homes visited in 1991, and, specifically Mrs. Gray, Mrs. Libla, and the Whispering Oaks Boarding Home, among others.

37. The Mass Media Bureau claims that Calvary submitted incomplete and misleading information to the FCC. It is hard to believe, however, that Calvary intentionally did so, since what Calvary usually submitted to the FCC to support its assertions was its notes of telephone calls or home visits prepared contemporaneously with the call or visit. With respect to its home

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<sup>3/</sup>The exception to this statement is Mr. Hillis who identified problems with a radio among many others when Mrs. Stewart and Mr. Lampe visited the Hillis home in March, 1989. Mr. Hillis' complaint was not addressed at that time for the reasons discussed above.

visits in 1991, Calvary submitted its contemporaneous notes signed by the complainant. Given the submission of its own contemporaneous notes as support, it is difficult to believe that Mrs. Stewart intentionally dictated false and misleading notes at the time it took the telephone call or a home visit. Essentially the conflict between the complainants and Calvary centered on essentially subjective perceptions of whether interference was "cured" or whether reception was "improved." Judging TV reception is essentially a subjective experience, as Mr. Ramage testified, and there is a great deal of room for honest disagreement before one can be accused of active misrepresentation. It is particularly difficult to believe that these notes are knowingly false, as argued above, when they are both contemporaneous notes and, for the February 1991 visits, signed by the complainants themselves.

38. The Mass Media Bureau also argues that Calvary failed in its duty to inform the Commission that complaints it had represented were resolved when it subsequently received complaints. Regardless of whether Calvary did, in fact, inform the Commission that Mrs. Wynn's and Mrs. Gray's complaints were resolved in its September 22, 1989, it is hardly clear whether Calvary had such a duty with respect to the complaints at issue here. At issue are not complaints which people called into the station, which Calvary could justifiably be held to be concealing if it did not subsequently report the complaints to the Commission. These complaints were collected by Mrs. Smith and sent directly to the FCC. KOKS first learned of the complaints when it received them

from the FCC. It is conceptually difficult to conceal from the FCC a complaint which Calvary received from the FCC. Clearly the Commission kept copies of the complaints which it forwarded to Calvary. The Commission noted that it was categorizing the complaints in a computer--a clear warning that it was keeping track of the complaints. How can Calvary be accused of concealing these complaints from the Commission? Perhaps more pertinently, how can the Commission find that Calvary knowingly and intentionally deceived the Commission about the existence of complaints which Calvary received from the Commission? cf. Alvin L. Korngold, 45 F.C.C.2d 1, 29 Rad. Reg. 2d (P&F) 875 (Rev. Bd. 1974) (no violation of rule 1.65 or fraud on Commission for failing to report in one application information already in Commission files).

**WHEREFORE**, the foregoing premises considered, Calvary Educational Broadcasting Network, Inc. respectfully requests that its application for license renewal be speedily granted.

Respectfully Submitted,

**CALVARY EDUCATIONAL BROADCASTING  
NETWORK, INC.**

By: 

Joseph E. Dunne III  
Its Attorney

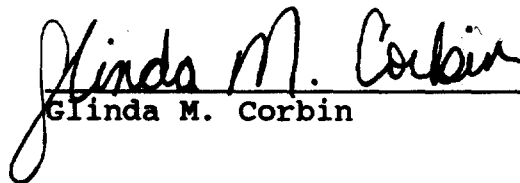
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**CERTIFICATE OF SERVICE**

I, Glinda Corbin, a paralegal in the offices of May & Dunne, Chartered, hereby certify that I have on this 26th day of February 1993, caused the foregoing "REPLY FINDING OF FACT AND CONCLUSIONS OF LAW" to be hand-delivered to the following:

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